

or (c)(2) of this section in one year, and the recipient is again determined to be untimely in the following year, HUD may reduce the recipient's next grant by 100 percent of the amount in excess of twice the Insular Area's most recent CDBG grant, unless HUD determines that the untimeliness resulted from factors outside of the grantee's reasonable control.

(5) The first review under paragraphs (c)(1) and (c)(2) of this section will take place 60 days prior to the conclusion of the Fiscal Year 2006 program year.

[53 FR 34466, Sept. 6, 1988, as amended at 60 FR 56917, Nov. 9, 1995; 72 FR 12536, Mar. 15, 2007; 72 FR 46371, Aug. 17, 2007]

**§ 570.903 Review to determine if the recipient is meeting its consolidated plan responsibilities.**

The consolidated plan, action plan, and amendment submission requirements referred to in this section are in 24 CFR part 91. For the purpose of this section, the term consolidated plan includes an abbreviated consolidated plan that is submitted pursuant to 24 CFR 91.235.

(a) *Review timing and purpose.* HUD will review the consolidated plan performance of each entitlement, Insular Areas, and Hawaii HUD-administered Small Cities grant recipient prior to acceptance of a grant recipient's annual certification under 24 CFR 91.225(b)(3) to determine whether the recipient followed its HUD-approved consolidated plan for the most recently completed program year, and whether activities assisted with CDBG funds during that period were consistent with that consolidated plan, except that grantees are not bound by the consolidated plan with respect to the use or distribution of CDBG funds to meet non-housing community development needs.

(b) *Following a consolidated plan.* The recipient will be considered to be following its consolidated plan if it has taken all of the planned actions described in its action plan. This includes, but is not limited to:

(1) Pursuing all resources that the grantee indicated it would pursue;

(2) Providing certifications of consistency, when requested to do so by applicants for HUD programs for which

the grantee indicated that it would support application by other entities, in a fair and impartial manner; and

(3) Not hindering implementation of the consolidated plan by action or willful inaction.

(c) *Disapproval.* If HUD determines that a recipient has not met the criteria outlined in paragraph (b) of this section, HUD will notify the recipient and provide the recipient up to 45 days to demonstrate to the satisfaction of the Secretary that it has followed its consolidated plan. HUD will consider all relevant circumstances and the recipient's actions and lack of actions affecting the provision of assistance covered by the consolidated plan within its jurisdiction. Failure to so demonstrate in a timely manner will be cause for HUD to find that the recipient has failed to meet its certification. A complete and specific response by the recipient shall describe:

(1) Any factors beyond the control of the recipient that prevented it from following its consolidated plan, and any actions the recipient has taken or plans to take to alleviate such factors; and

(2) Actions taken by the recipient, if any, beyond those described in the consolidated plan performance report to facilitate following the consolidated plan, including the effects of such actions.

(d) *New York HUD-administered Small Cities.* New York HUD-administered grantees shall follow the provisions of paragraph (b) of this section for their abbreviated or full consolidated plan to the extent that the provisions of paragraph (b) of this section are applicable. If the grantee does not comply with the requirements of paragraph (b) of this section, and does not provide HUD with an acceptable explanation, HUD may decide, in accordance with the requirements of the notice of fund availability, that the grantee does not meet threshold requirements to apply for a new small cities grant.

[60 FR 56918, Nov. 9, 1995, as amended at 72 FR 12537, Mar. 15, 2007]

**§ 570.904 Equal opportunity and fair housing review criteria.**

(a) *General.* (1) Where the criteria in this section are met, the Department